

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Todd A. Roth,	)	
	)	
Petitioner,	)	<b>ORDER DENYING PETITIONER'S</b>
	)	<b>MOTION TO RECONSIDER</b>
vs.	)	
	)	
Timothy Schuetzle, Warden, North	)	Case No. 1:07-cv-096
Dakota State Penitentiary,	)	
	)	
Respondent.	)	

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Before the Court is the Petitioner's "Motion to Reconsider Order Adopting Report and Recommendation" which was filed on August 29, 2008. See Docket No. 12. On December 10, 2007, the petitioner, Todd Roth, filed a petition for habeas corpus relief under 28 U.S.C. § 2254. See Docket No. 1. On February 11, 2008, Magistrate Judge Karen K. Klein issued a Report and Recommendation and recommended that Roth's Section 2254 petition be dismissed with prejudice. See Docket No. 4. On August 5, 2008, the Court adopted the Report and Recommendation and denied the Section 2254 petition. See Docket No. 10. Roth then filed the motion to reconsider on August 29, 2008, and subsequently filed a notice of appeal to the Eighth Circuit Court of Appeals on September 3, 2008. See Docket No. 13. On December 11, 2008, the Eighth Circuit dismissed Roth's appeal. See Docket No. 15.

Having carefully reviewed the record, and in light of the Eighth Circuit's dismissal of Roth's appeal, the Court finds no basis to reverse its previous order. The Court **DENIES** the Petitioner's motion to reconsider (Docket No. 12).

**IT IS SO ORDERED.**

Dated this 12th day of December, 2008.

/s/ Daniel L. Hovland  
Daniel L. Hovland, Chief Judge  
United States District Court